

APPEAL NO. 021029
FILED JUNE 17, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 21, 2002. The hearing officer resolved the disputed issues by deciding that the appellant's (claimant) compensable injury of _____, does not extend to or include avascular necrosis, and that the claimant did not have disability after March 27, 2001. The claimant appealed. No response was received from the carrier.

DECISION

The hearing officer's decision is affirmed.

It is undisputed that the claimant sustained a compensable repetitive trauma injury. The claimant had the burden of proof on the issues of the extent of the compensable injury and disability. We disagree with the claimant's assertion that the opinion of her treating doctor regarding causation was unrefuted because the doctor who reviewed the claimant's medical records at the carrier's request had a contrary opinion. The claimant's appeal confuses the admissibility of an expert's opinion at a CCH, which is not an issue in this case, with the weight and credibility to be given to that opinion. Section 410.165(a) makes the hearing officer the judge of the weight and credibility of the evidence. Clearly, the hearing officer could, and did, consider the medical literature that was presented by both parties in determining the reliability of the opinions rendered on causation. A party cannot present evidence at a CCH and then fault the hearing officer for considering that evidence. In a case such as this, where conflicting evidence is presented, the hearing officer, as the trier of fact, has the responsibility to resolve the conflicts and inconsistencies in the evidence and determine what facts have been established. We conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **WAUSAU UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**C T CORPORATION
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Michael B. McShane
Appeals Judge